

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Criminal Action No.: 5:18-cr-353
against)	
)	
DAVON SULLIVAN,)	
Defendant.)	
)	

The Defendant, DAVON SULLIVAN, through his attorney, Wallace Van C. Auser III, gives this response to the Government's motion for a protective order with regards to the discovery in the above matter. The Government requests a limitation on material designated protective material which can only be disseminated among the defense team absent an order of the court and written material may not be left with any incarcerated defendant. I join in with the other defendants who have made responses opposing the motion.

Davon Sullivan is being held in the Delaware County Jail. I saw him on November 8, 2018. It took about 5.5 hours in travel time plus the time I spent with him. Not allowing me to leave any material with my client imposes a burden on the attorney-client relationship and causes greater expense to the CJA funds in view of the necessity of having to go over the material with the client rather than leave copies with him initially. It would be more efficient to provide him with material he can review before we speak. There are limited times during the work day when I can speak with my client at the jail. If I am not allowed to send material to him or leave material with him, it will be difficult to work within the times available to visit with my client.

The Government has only made a conclusory allegation about the possibility of harm to witnesses. It has not alleged any specific facts to substantiate its request and of the harm it alleges. Therefore, it has not met its burden of proof.

Lastly, it is unclear how providing the information to an incarcerated defendant, but just not leaving written material with him, would prevent information about a witness from being disseminated verbally or otherwise.

CONCLUSION

The Government has not provided sufficient proof for the relief requested. Further, the relief requested would violate his rights to due process and effective assistance of counsel and to equal protection of the laws.

The motion of the Government should be denied in all respects.

Dated: November 13, 2018

Respectfully submitted,

/s/ Wallace Van C. Auser III
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